

**IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT
OF ALABAMA, NORTHERN DIVISION**

MICHAEL RONNIE BOISSONNEAU,)

Plaintiff,)

v.)

Case No.: 2:07cv914-MHT

DAVID TIBBS, et al.,)

Defendants.)

DEFENDANT D. T. MARSHALL'S ANSWER TO PLAINTIFF'S COMPLAINT

COMES NOW Defendant D. T. Marshall, and for answer to the Plaintiff's Complaint, states as follows:

COUNT ONE

Count One of the Complaint for excessive force is not directed against this Defendant and therefore requires no response from this Defendant. To the extent a response is required, denied.

COUNT TWO

Count Two of the Complaint regarding violation of civil rights regarding Plaintiff's arrest and search is not directed against this Defendant and therefore requires no response from this Defendant. To the extent a response is required, denied.

COUNT THREE

Defendant denies the allegations in Count III regarding inadequate medical treatment and demands strict proof thereof.

FIRST DEFENSE

The Complaint fails to state a claim against this Defendant upon which relief can be granted.

SECOND DEFENSE

Defendant did not violate any of the Plaintiff's constitutional rights afforded him under law.

THIRD DEFENSE

Defendant is entitled to immunity under the Eleventh Amendment to the United States Constitution with respect to Plaintiff's claims against him in his official capacity.

FOURTH DEFENSE

All official capacity claims against this Defendant must be dismissed because in his official capacity, Defendant is not considered a "person" subject to liability under 42 U.S.C. § 1983.

FIFTH DEFENSE

Defendant is entitled to qualified immunity with respect to Plaintiff's claims against him in his individual capacity.

SIXTH DEFENSE

Defendant avers that he acted in a manner that was in accordance with previous court rulings regarding the operation of the Montgomery County Detention Facility.

SEVENTH DEFENSE

Defendant avers that the prison regulations in question were reasonably related to legitimate penological interests.

EIGHTH DEFENSE

Defendant avers that Plaintiff's claim for deliberate indifference to serious medical needs is due to be dismissed because Plaintiff was afforded more than adequate medical care at the Montgomery County Detention Facility.

NINTH DEFENSE

Plaintiff's claim for emotional distress is due to be dismissed because Plaintiff has not suffered any physical injury.

TENTH DEFENSE

Plaintiff's claims are due to be dismissed because he failed to exhaust administrative remedies.

ELEVENTH DEFENSE

Plaintiff's claim for injunctive relief is moot because Plaintiff is no longer incarcerated at the Montgomery County Detention Facility.

TWELFTH DEFENSE

Plaintiff has failed to satisfy the requirements for injunctive relief; therefore all claims for injunctive relief are due to be dismissed.

THIRTEENTH DEFENSE

Plaintiff's claims are due to be dismissed because he cannot demonstrate that he suffered a constitutional violation.

Respectfully submitted this 28th day of November, 2007.

/s/ Constance C. Walker
Constance C. Walker (ASB-5510-L66C)
Attorney for the Defendant Sheriff D. T. Marshall

OF COUNSEL:

HASKELL SLAUGHTER YOUNG & GALLION, LLC
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(334)265-8573
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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the following by causing a true and complete copy of same to be deposited in **the United States Mail**, sufficient first class postage prepaid, on this the 28th day of November, 2007, addressed as follows:

Michael Ronnie Boissonneau
3000 Lower Wetumpka Road
Deatsville, Alabama 36022

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of November, 2007, I electronically filed the foregoing with the Clerk of the Court using the **CM/ECF** system that will send notification of such filing to the following counsel:

Bettie J. Carmack
Assistant Attorney General
Office of the Attorney General
11 South Union Street
Montgomery, Alabama 36130

/s/Constance C. Walker
OF COUNSEL